

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI, RESPONDENT,

v.

RONALD GENE CALVERT, APPELLANT.

DOCKET NUMBER WD70004

DATE: August 18, 2009

Appeal From:
CHARITON COUNTY CIRCUIT COURT
THE HONORABLE GARY E. RAVENS, JUDGE

Appellate Judges:
Division One: Alok Ahuja, P.J., James M. Smart, Jr., and Lisa White Hardwick, JJ.

Attorneys:
Michael T. Yonke, Kansas City, MO, **for appellant.**

Shaun J. Mackelprang and James B. Farnsworth, Jefferson City, MO, **for respondent.**

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS, WESTERN DISTRICT

STATE OF MISSOURI, RESPONDENT

v.

RONALD GENE CALVERT, APPELLANT

WD70004

CHARITON COUNTY CIRCUIT COURT

Ronald Calvert was charged with two counts of distributing a controlled substance within 1,000 feet of public or governmental assisted housing in violation of section 195.218 RSMo, a class A felony. The State alleged that Calvert sold methamphetamine once out of his home and once out of his barn. The State presented evidence that there was a senior housing complex located approximately 672 feet from Calvert's property. Calvert was convicted on both counts. Calvert appeals on the basis that the State did not prove that he knew the senior housing complex was public or governmental assisted housing and because the State failed to prove that the senior housing was within 1,000 feet of his house or barn.

REVERSED AND REMANDED.

Division One holds: The State did not prove beyond a reasonable doubt that Calvert violated section 195.218 by knowingly delivering a controlled substance within 1,000 feet of public housing or other governmental assisted housing. The circumstantial evidence the State relied on to prove that Calvert knew that the senior housing complex was public housing (a "bureaucratic-looking" sign, with an "equal opportunity housing" logo, identifying the complex as "senior housing") was not sufficient to support an inference of Calvert's knowledge of that fact beyond a reasonable doubt. Because the State failed to prove the knowledge element of the crime, it is unnecessary to address Calvert's claim with regard to distance.

Calvert does not dispute that the State presented sufficient evidence to prove that he twice distributed methamphetamine in violation of section 195.211, a class B felony. Because there was sufficient evidence to support a conviction for that lesser offense, the proper remedy is to remand for entries of convictions on that offense. The judgment is reversed and remanded for entry of conviction on two counts of distributing a controlled substance in violation of section 195.211, and for resentencing accordingly.

Opinion by: James M. Smart, Jr., Judge

August 18, 2009

This summary is **UNOFFICIAL** and
should not be quoted or cited
